

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
Civil Action No. 1:19-cv-272-LCB

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MAXWELL KADEL; JASON FLECK;  
CONNOR THONEN-FLECK; JULIA  
MCKEOWN; MICHAEL D.  
BUNTING, JR.; C.B., *by his next  
friends and parents*, MICHAEL D.  
BUNTING, JR. and SHELLEY K.  
BUNTING; SAM SILVAINE, and  
DANA CARAWAY.

Plaintiffs,

v.

DALE FOLWELL, *in his official  
capacity as State Treasurer of North  
Carolina*; DEE JONES, *in her official  
capacity as Executive Administrator of  
the North Carolina State Health Plan  
for Teachers and State Employees*;  
NORTH CAROLINA STATE  
HEALTH PLAN FOR TEACHERS  
AND STATE EMPLOYEES; NORTH  
CAROLINA DEPARTMENT OF  
PUBLIC SAFETY.

Defendants.

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**STATE HEALTH PLAN DEFENDANTS’  
MOTION FOR PARTIAL SUMMARY JUDGMENT  
(ORAL ARGUMENT REQUESTED)**

Defendants, the North Carolina State Health Plan for Teachers and  
State Employees (“the State Health Plan”), Dale Folwell (*in his official capacity*

*as State Treasurer of North Carolina*); and Dee Jones (*in her official capacity as Executive Administrator of the State Health Plan*), by and through undersigned counsel, do hereby move for partial summary judgment on Count III (the Affordable Care Act claim) and Count IV (the Title VII claim) on the grounds that there are no genuine issues of material fact as to these Counts and Defendants are therefore entitled to judgment as a matter of law.

In support of this motion, the State Health Plan Defendants rely on their memoranda of law and the declarations, deposition testimony, and exhibits filed herewith.

WHEREFORE, The State Health Plan Defendants respectfully request that this Court Grant its motion for partial summary judgment and enter judgment for Defendant State Health Plan regarding Count III (the Affordable Care Act claim) and Count IV (the Title VII claim).

The State Health Plan Defendants believe that oral argument is warranted in this case and would be helpful to the Court and therefore respectfully request, pursuant to L.R. 7.3(c), the opportunity to present oral arguments on this Motion.

Respectfully submitted, this the 30<sup>th</sup> day of November, 2021.

/s/ John G. Knepper

John G. Knepper  
Wyo. Bar No. 7-4608  
Law Office of John G. Knepper, LLC  
1720 Carey Avenue, Suite 590  
Cheyenne, WY 82001  
Telephone: (307) 632-2842  
[John@KnepperLLC.com](mailto:John@KnepperLLC.com)

/s/ Kevin G. Williams

Kevin G. Williams  
N.C. Bar No. 25760

/s/ Mark A. Jones

N.C. Bar No. 36215  
BELL, DAVIS & PITT, P.A.  
100 N. Cherry St., Suite 600  
Winston-Salem, NC 27101  
T(336)722-3700; F 722-8153  
[kwilliams@belldavispitt.com](mailto:kwilliams@belldavispitt.com)  
[mjones@belldavispitt.com](mailto:mjones@belldavispitt.com)

## CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will provide electronic notification to all counsel of records in this matter.

This the 30<sup>th</sup> day of November, 2021.

/s/ John G. Knepper

John G. Knepper  
Wyo. Bar No. 7-4608  
Law Office of John G. Knepper, LLC  
1720 Carey Avenue, Suite 590  
Cheyenne, WY 82001  
Telephone: (307) 632-2842  
[John@KnepperLLC.com](mailto:John@KnepperLLC.com)

/s/ Kevin G. Williams

Kevin G. Williams  
N.C. Bar No. 25760

/s/ Mark A. Jones

N.C. Bar No. 36215  
BELL, DAVIS & PITT, P.A  
100 N. Cherry St., Suite 600  
Winston-Salem, NC 27101  
T(336)722-3700;F 722-8153  
[kwilliams@belldavispitt.com](mailto:kwilliams@belldavispitt.com)  
[mjones@belldavispitt.com](mailto:mjones@belldavispitt.com)